

HONORABLE LONNY R. SUKO

MICHAEL E. McFARLAND, JR., #23000  
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IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

KATHLEEN H. PAUKERT as Guardian  
ad Litem for MINOR CHILD A; and  
JOHN and JANE DOE, husband and wife  
and parents of MINOR CHILD A,

Plaintiffs,

vs.

CENTRAL VALLEY SCHOOL  
DISTRICT NO. 356, a political  
subdivision; DAVE BOUGE, individually  
and in his capacity as an official of  
Bowdish Middle School and/or Central  
Valley School District; LISE LOUER,  
individually and in her capacity as an  
official of Bowdish Middle School and/or  
Central Valley School District; ROBERT  
JOHNSON, individually and in his  
capacity as an official of Bowdish Middle  
School and/or Central Valley School  
District; and MICHAEL O. PEARSON,  
individually and in his capacity as an  
official of Bowdish Middle School and/or  
Central Valley School District,

Defendants.

NO. CV-13-094-LRS

ORDER GRANTING  
STIPULATED MOTION FOR  
PROTECTIVE ORDER

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MOTION FOR PROTECTIVE ORDER - page 1

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1 BEFORE THE COURT is the parties Stipulated Motion for Protection  
2 (**ECF No. 12**). This case involves claims under 42 U.S.C. § 1983, Title IX and  
3 state law arising out of the alleged sexual assault of Minor Child A, who at the  
4 time of the alleged occurrence(s) was a student at Central Valley School District  
5 (the District). The Family Educational Rights and Privacy Act (“FERPA”), 20  
6 U.S. C. § 1232g establishes protections for certain education records and permits  
7 the Department of Education to deny federal funding to a school system that  
8 does not comply with its provisions. The Motion requests the court to (1) enter  
9 an order allowing Plaintiffs access to and discovery of the names and educational  
10 records and information, while at the same time allowing the District to comply  
11 with FERPA and protecting the privacy rights of students, and (2) enter an  
12 protective order keeping any records produced confidential.  
13  
14

15 The Court finds given the nature of the allegations in this case there is  
16 good cause to compel the District to comply with its discovery obligations under  
17 Rule 26 after compliance with the notification requirements mandated by  
18 FERPA and to enter the parties’ stipulated protective order to protect students’  
19 right to privacy.  
20

21 **ACCORDINGLY, IT IS HEREBY ORDERED:** The parties Stipulated  
22 Motion for Protective Order (**ECF No. 12**) is **GRANTED**. The District shall  
23 provide Plaintiffs access to and discovery of the student named and educational  
24 records relevant to any claim or defense in this case.

25 The following procedures shall apply to any documents that identify the  
26 names of students or former students of Central Valley School District:  
27  
28

1           1.     The names of any students or former students contained in any  
2 documents exchanged in discovery in this case will be deleted from the pleadings  
3 and public documents and replaced with the designation of initials or a number.  
4 The name and identity of the students involved will continue to be protected  
5 from public disclosure unless waived in writing by the former student if over 18  
6 years of age, or by a parent, or otherwise required by law. Subject to the  
7 foregoing, any document exchanged by the parties in this case that contains the  
8 name of any student or former student of Central Valley School District will be  
9 treated as “Confidential” and subject to the terms of this Protective Order. Once  
10 all names of students and any identifying or otherwise confidential information  
11 (i.e., addresses, social security numbers, telephone numbers, etc.) in any  
12 document are changed to initials or a number or letter (i.e., student RMP, or  
13 student 23), or are otherwise redacted, the “Confidential” restriction on the  
14 document will cease to exist. The point of the redacting is to preclude  
15 identification of the student by persons not entitled to review the information  
16 pursuant to this protective order.  
17

18  
19           2.     Central Valley School District will provide the Plaintiffs with  
20 unredacted documents responsive to Plaintiffs’ discovery requests. Any  
21 student/educational records that may be contained in those records production  
22 will be marked “Confidential” (hereinafter, “Confidential documents”) and  
23 treated as confidential, subject to this protective order.  
24

25           3.     All parties and their attorneys agree to treat all Confidential  
26 documents as confidential, except as necessary to present the parties’ claims in  
27 the above-referenced case. Plaintiffs and their attorneys agree not to disseminate  
28

1 any student names, educational records or any information from any educational  
 2 records covered by this Order to any third-party, when and only when the  
 3 specific identify is needed, except to:

- 4 a. The party(ies), their attorneys and the attorneys' employees;
- 5 b. Consultants and experts retained by any party for the purposes of
- 6 assisting in the preparation or presentation of claims or defenses;
- 7 c. Any person for the purpose of perfecting service of notices of
- 8 deposition and/or subpoenas for trial upon student witnesses;
- 9 d. The court and its personnel;
- 10 e. Court reporters, their staff and professional vendors to whom
- 11 disclosure is reasonably necessary for this litigation;
- 12 f. The author or addressee of the document, or the person to which the
- 13 document or information relates, or the original source of the
- 14 information; and
- 15 g. Any other person authorized by the court.

16 4. All of the foregoing persons, other than the parties' attorneys and  
 17 the attorneys' staff persons working on this case shall be shown a copy of this  
 18 Order and shall sign it or otherwise signify in writing prior to being shown  
 19 confidential documents that the person has read the Order and consents to be  
 20 bound by its terms.

21 5. Any Confidential documents that are filed with the Court will be  
 22 reviewed by the party proposing the document, and the names and other  
 23 identifying details of the students or former students involved will be deleted (or  
 24 replaced with initials or a student number). The parties will attempt to agree to

1 any deletions of information in advance. If the parties are unable to agree on the  
2 deletion of information, the Court will be requested to review the document in  
3 camera and make a determination of what, if any, information should be deleted  
4 from the document.

5  
6 6. Upon completion of this litigation, all copies of the records,  
7 documents or deposition testimony with references to students whose actual  
8 names are identified shall remain confidential, unless waived, and shall continue  
9 to be kept pursuant to the above criteria.

10 7. Nothing contained herein shall be construed to prejudice or limit  
11 any party's right to use the records in the taking of depositions or at trial to the  
12 extent permitted, if at all, under the rules of evidence and civil procedure.

13 8. Court reporters shall be instructed to transcribe students' names by  
14 the name stated in the deposition but said deposition shall then be treated as  
15 confidential until the names are changed to initials or to a student number.

16 9. Nothing in this Order shall prevent any party hereto from seeking  
17 modification of this Order, or from objecting to discovery which it believes to be  
18 otherwise improper.

19 10. Violation of the terms of this Order, by any of the signators to this  
20 agreement, their employees, agents or experts, may subject the violator to any  
21 sanction deemed appropriate by the Court.

22 The Clerk of the Court is directed to file this Order and provide copies to  
23 counsel.

1 DATED this 10th day of September, 2014.

2  
3 *s/Lonny R. Suko*

4  
5 LONNY R. SUKO  
6 Senior United States District Judge

7  
8 PRESENTED BY:

9  
10 EVANS, CRAVEN & LACKIE, P.S.

11 By /s/ Michael E. McFarland, Jr.

12 MICHAEL E. McFARLAND, JR., WSBA #23000

13 Attorneys for Defendants

14  
15 EYMANN ALLISON HUNTER JONES, P.S.

16  
17 By /s/ Richard C. Eymann

18 RICHARD C. EYMANN, WSBA #7470

19 Attorneys for Plaintiffs

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29 ORDER GRANTING STIPULATED  
30 MOTION FOR PROTECTIVE ORDER - page 6

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